619 area of the Western Desert. And, according to the Governor
675 of the province, it is the 'Aishaibat of al-Qasr who are the
578 most powerful of the three primary segments of the 'Ali Ahmar;
for example, they have succeeded in sending their 'umda (chief)
to the National Assembly in Cairo. In fact, it was over the
[666] election of the 'umda in 1964 that the split between the
Marabit Qit'an and the Sa'adi Ali Ahmar became an open one
and produced political rumblings among the tribes. This case
makes explicit the relationship between the two types of
tribes in the Western Desert, and gives an important instance
of the operation of structural principles in defining groups
and group relations.

619 During the national elections of 1964, it was the
675 traditional duty of the Marabit to vote for his affiliated
666 Sa'adi candidate. Since the Qit'an are allied in a client-
578 protector relationship with the Ali Ahmar, all of the
Marabtiin of this tribe should have given their votes to
the 'umda of the 'Aishaibat who was seeking office to the
National Assembly. But, instead, the Qit'an ran a candidate
of their own--largely at the urging of the Governor, it is
said. But, despite this Marabit opposition, the 'Aishaibat
were successful in getting their 'umda elected. Furthermore,
619 the 'Aishaibat said that this rebellion of the Marabtiin
675 could not go unpunished, that reprisals would be taken. The
578 type of sanction which the 'Aishaibat directed against the
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619 Qit'an is one which is employed in both the internal and
675 the external systems of political relations: it is an or-
598 ganized sanction taken by the corporate representatives
•626 against socially disapproved behavior. Against the Marabtiin,
619 it involved a closure of group affiliation and protective
695 alliance usually obtainable through affinal ties. The Qit'an
578 were prohibited from marrying into the 'Aishaibat primary
* 613 segment. The sanction was tested while I was in the field.
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In March of 1965, 'Umda Ziyad of the Qit'an contracted a marriage for his son with one of the secondary groups of the 'Aishaibat. He went through all of the marriage preliminaries and paid a brideprice of 70 E.L. (Egyptian pounds). But afterwards, the girl's family, following the advice of the 'Aishaibi corporate heads, returned the brideprice and refused his offer. The 'Umda of the Qit'an then went to talk to the brothers of the girl (for her father was dead) and told them that he would pay a brideprice of 1000 E.L. "but I want the girl." He paid them part of the brideprice (for they had agreed in the face of this unusual offer) and sent a car to pick up the girl. The arrangement did not succeed, for the paternal cousin of the girl who, according to Bedouin custom and tradition, had a prior claim on her, stopped the car at gunpoint. The corporate heads had told the cousin that this was his right, and in this case, his duty. Then the corporate heads of the 'Aishaibat called a council, and the members met with the brothers of the girl. They told the brothers: "You know what happened at the time of the election. 'Umda Ziyad is 'Ali Ahmar and he should have voted for our 'umda, but he tricked us." The brothers refused to be persuaded by the tribal leaders. They said that if anyone from the 'Aishaibat would pay them more than 1000 E.L., they would give their sister to him. The leaders warned the brothers that if they went through with this marriage they would each be fined 200 E.L. Finally, and after this meeting, the leaders went to 'Umda Ziyad himself with the threat, that were he to go through with this marriage "all of the 'Aishaibat will begin to fight you." The 'umda

619 695 578 *613 • 626 582

could not afford to risk such large scale conflict and so he withdrew his offer of marriage to the brothers. After this, as a display of authority and an attempt to maintain something of the alliance between their group and the Qit'an, the 'Aishaibi leaders made the public announcement that the girl could marry anyone else, but not the son of 'Umda Ziyad.

619 695 *613 The various sets of authority relations operative in the al-Qasr area are obvious from this account, but they will be better defined as the discussion proceeds. Here, I only wanted to make clear that the relationship between Sa'adi and Marabit is one based upon contract and local contiguity, and reinforced by cognation. There is no unilinear basis for the relationship and no attempt to fit it into a "unilinear genealogical mould." [582] The structural differentiation between Sa'adi and Marabit seems to reflect a dominant-subjective relationship, in the sense discussed by Weber (1947) and Southall (1956), but its possible class overtones are played down by the fact that there are normally no objections to intermarrying between groups. [851] The Bedouin of al-Qasr say, "what is the difference, the children from such a marriage will be Sa'adi anyhow?"

619 *613 The Sa'adi-Marabit differentiation is relatively unimportant for a study of al-Qasr itself, since the Marabit number is so small--one lineage consisting of five brothers and their families. The contrast between Sa'adi and Marabit, secular and sacred tribes, becomes more important for a

593 In al-Qasr it is a rare sight to see a father and his young son together, and it is only slightly more common to see the father with the grown son. The second case may simply be a reflection of the division of labor since the son, once grown, takes over the economic tasks of his father.

593 867 584 872 The most important duties of a father toward his son are three: he must teach him generosity, courage and courtesy; he must see that the boy learns the Quran; and he must arrange a good marriage for his son. According to

593 852 [872] [583] Peters (1960:34), the Cyrenaican Bedouin father must attend to three things for his son, namely: his circumcision, his education in the Quran, and his bridewealth when he marries.

[179] In al-Qasr, the Egyptian school teachers have succeeded in showing the Bedouin that circumcision is a private family

593 852 178 affair and not a public ritual. Although all fathers still see to it that their sons are circumcised, the father is no longer responsible for "making a circumcision party." In

[626] [481] fact, the father who does insist on following the old ways by hiring a dancer and publicly marking his son's rite de passage, will be ridiculed as one "who only wants to make money from the ritual gift (naquut) given the boy."

593 The son recognizes the rights which the father has over him through a show of respect and obedience. A boy shows deference toward his father by not smoking, singing, or reciting poetry of any kind in his presence. During the

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*613 public corporate affair and not a private one.
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The head of the boy's tertiary group then relays the information about the marriage to the heads of the other tertiary segments which make up the secondary group. Again, this is an informal procedure but all corporate representatives must be informed of, and must approve of, the proposed marriage. Thus is the corporate channel of communication kept open and the corporate network of authority relations maintained through a reciprocal exchange of rights and duties. It is, as Fortes (1949:209) has noted, the lineage principle which compels a man to consult and gain the support of his lineage-mates in any matter of importance, or even in trivial matters. Demands are channeled through the corporate lines, "for no jural act takes place except in the framework of the lineage system."

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*613 If the father should not consult the secondary group
•626 concerning his son's marriage--he may anticipate objections
[593] and consider his son's desires above those of the group--there are sanctions, forms of moral coercion, which can be applied by the group. First, a man may be fined if he goes through with an objectionable marriage; added to this, the man may be denied access to the preferred channels of marriage which exist within the lineage; lastly, dependent upon the gravity of the situation, the man may be threatened with expulsion from the lineage group.

613 621 571 decision-making which allocates values in society. This process orders the internal and external political relations of corporation members. The corporate office which acts to regulate internal affairs, and to represent the group in external affairs is a unique status in al-Qasr having only one incumbent at a time. In Bedouin society, then, the corporation is to be considered distinct from the corporate sole (Smith 1966).

621 626 571 [183] The corporate group, although based on common interests and values, is not an integrated body simply in terms of consensus. Coercion also maintains corporate relationships. Consensus derives from the code of the group (Nadel 1951: 161), a set of common ideals. But in practice, the group must exert coercive pressures, sanctions, against individual behavior which threatens the welfare of the collectivity. Coercion may be seen as a necessary condition for what Durkheim called "mechanical solidarity." In al-Qasr, as in most societies, the desire for conformity to norms predicates coercive measures; coercion and consensus derive from the same cause, i.e., the requirement of some degree of integration. The corporate group and its authority structure is the mechanism which insures, through political means, the necessary degree of integration for the survival of al-Qasr society. In order to understand the phenomenon of social change occurring in al-Qasr, politics as an aspect of culture

621 571 182 [121]

should be thought of as an adaptive mechanism. This will help us to understand two structural features of the Bedouin political system: the establishment of cognatic alliances and the differentiation of political roles. In tradition and modernity, the integration and the survival of the Bedouin social system have depended upon the proliferation of these features.

It is quite obvious that "a corporation can only form itself on the basis of a common interest" (Radcliffe-Brown 1952:45); that any social relationship, or political group is characterized by both "pragmatic contents" and "moral aspects;" and that "political sentiments" as part of the group's moral and legal norms are enforcible by secular sanctions brought to bear on individuals or groups (Fortes and Evans-Pritchard 1940:20). But the discovery of what underlies a "common interest," "moral aspect," and "political sentiment" is a subtle problem which varies from culture to culture. It deals with what Weber referred to as "problems of meaning," and ultimately, the legitimation of the normative system. What makes morality and sentiments meaningful and sanctions legitimate is a value, a connecting element between the social and cultural systems, "the constitutive symbolism which grounds the identity and solidarity of the community" (Parsons 1966:17). It is unlikely that such a value will ever be obvious, no matter how essential it is, because

*613 571 concepts of what is desirable and undesirable. "Every structural arrangement," Raymond Firth has said, "has its moral attributes of obligation" (1961:212). This is most essential in an uncentralized system, such as that of al-Qasr, where no institutions exist outside of the corporate group for the introduction of new principles of organization and association.

181 578 577 *[613] [571] Among the Bedouins, the conceptualization of an authority structure in the role of 'aqila relates to the high value which they place upon a peaceful and orderly world. Children in al-Qasr are taught that one of their serious duties in life is to mediate conflicts, especially, when they are potentially [554] situations which may lead to protracted conflict. And, in a segmentary society where a member's status links him to many different groups in differing degrees of importance, all quarrels are potential group wars. The Bedouin child knows that his elders, and God, want him to follow "the path of the good" (tariiq al-khair). Mainly, this involves helping others to follow "the path of the good" by "bringing them back together" when they are in conflict. When two individuals quarrel and refuse to return to "the path of the good," this brings 'aib ("shame") to each of the persons. When two in- *[613] dividuals quarrel, setting off a group conflict, this brings 'ar ("shame") to the respective corporate groups of the in- *[626] [784] dividuals (Abou-Zeid 1966). Against individuals who persist in the ways which cause 'aib to himself, or 'ar to his group,

181 578 579 •626 784 certain sanctions of both a secular and sacred nature may be imposed: expulsion from the group and the curse of God are ultimate coercive interventions in the process of conflict regulation.

*613 181 182 571 The role of 'aqila presents the corporate group as "one person" in opposition to other similarly defined groups. Thus, Fortes says (1953:25), "the way a lineage system works depends on the kind of legal institutions found in the society," and this is a function of its political organization. The Bedouin political organization is characterized by two aspects: the internal political system, and the external political system. Both systems are regulated by the same values and norms. Authority relations within the corporate level are founded on values inculcated in the socialization process, and prescribe political behavior for all who come under the jurisdiction of the respective 'aqila. Authority relations outside the corporate level are conducted through the 'aqila. This political role as a functional part of the lineage structure operates in terms of kinship values; politics at the external level are characterized by no new principles.

*613 571 182 Politics in al-Qasr, and elsewhere for that matter, is a process of problem-solving and conflict regulation between individuals and groups. Political action occurs at different levels of the lineage structure, and each is demarcated as a focus or sphere of authority. But all authority stems from

*613 He must pay the diiya with the shares which he collects from
682 the others. It makes no difference if the 'aqila must pay
554 with his own money. He is responsible for this matter before
57 the whole tribe."

*613 The collection of the diiya is only one aspect of the
554 process of conflict regulation, but it stands out as the funda-
682 mental manifestation of the office of 'aqila. In the course
[692] of office, an 'aqila will spend much more time arbitrating
disputes, but it is his responsibility concerning blood-money
which defines his position and his jurisdiction as corporate
682 ones. During the present period in al-Qasr, the practice of
178 blood-revenge has all but disappeared as a mechanism of social
•[626] control. Nevertheless, the possibility of its happening is
not too remote. The payment of blood-money is the alternative
[619] to blood-revenge, and blood-revenge is a condition for all-out
[721] tribal warfare--something which the Bedouins look upon with
[829] horror. One informant once likened a primary-level war between
the 'Aishaibat and the Kamailat (should it ever occur) to
*613 "the end of the world." The 'aqila as a representative of a
682 group can prevent war by preventing reciprocal homicides: by
554 presenting his share of the blood-money he regulates conflict
578 and promotes integration. The blood-money is usually paid
over a period of from one to two years. In this case, the
[571] notion of "debt" represents a contingent, institutionalized
social relationship for the purpose of maintaining political
order.

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The boundaries of the Bedouin political community may be defined so as to include all of those authority groups which operate in accordance with the recognized legal code of the Western Desert. This code is referred to as 'awaiyid Awlad 'Ali, i.e. "the customs of the sons of 'Ali." The members of the Awlad 'Ali tribe identify with each other as a group. They recognize their common heritage and speak of "the Awlad 'Ali as one." But more importantly, the Awlad 'Ali represents a political community because they are "prepared to regulate their differences by means of decisions accepted as binding because they are made in accordance with shared political norms and structures" (Easton 1959:229). Recalling the discussion of familial authority and internal and external systems of authority relations, we may think of the Bedouin political community as a composite of authority or jural groups "within which there are a moral obligation and a means ultimately to settle disputes peaceably" (Middleton and Tait 1959:9).

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In al-Qasr, political order and the articulation of political relations between secondary corporate groups depend upon something besides structural and ideological uniformities. Although blood-revenge and feuding do not take place at the internal system of authority relations, they are common means of controlling the distribution of authority and power between secondary units. Though these mechanisms or sanctions are considered "the right of the Arabs," since they do threaten

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*613 571 681 628 626 671 peace and security in the desert they are discouraged by means of the moral and legal norms expressed in the 'awaiyid, or law of the Bedouins.

Conflict regulation between secondary groups is the *613 571 578 function of the 'awaagil who act as legitimate representatives in terms of the rawaabit, and as legitimate judges and decision-makers in terms of the 'awaiyid. Not all conflict in the external political system is, in terms of our structural levels, between secondary authority groups, but seldom is any group larger than the secondary unit mobilized for political 619 action. In other words, even where we note that conflict is *613 571 578 between two primary units, i.e., the 'Aishaibat and the Kamailat, there is probably, in fact, political action taking place between two secondary groups within the respective primary groups. However, there always exists the very real possibility that greater conflict will be generated involving primary and even tribal units.

128 In the next section of this chapter, I will discuss Bedouin law and sanctions within the framework of the lineage structure and the authority levels at which they operate. The following section will further illustrate the legitimacy and dynamics of authority and structure in Bedouin society.

*613 682 impossible within the corporate group. Middleton and Tait (1958:19) have generalized on this point, and Wagner (1940: 218) has been very explicit: "When a breach of law occurs within a given group (lineage, sub-clan, or clan) and the nature of the offence is such that it affects those interests which are specific to the group and not further divisible, a restoration of the breach by compensation is obviously impossible, as it would necessitate the splitting of the group into two units . . . " The Bedouins avoid division in [672] such cases by holding the whole secondary group responsible for the diiya, and usually the share of the diiya which would be forthcoming from the killed man's tertiary segment is excluded from the total payment. It seems that either the Bedouins represent an atypical case, or Africanists have failed to make a sharp and analytical difference between the blood-vengeance grouping and the group which actually shares in the paying and receiving of blood money.

691 [682] [626] Bedouin law and political order, then, center on the institution of blood-revenge or retaliation. The payment of compensation as a prevention of blood-feud is a central concern of the 'awaiyid Awlad 'Ali. Murray (1935:313-328) presents a Bedouin legal document "signed with the seals of twenty-two sheikhs testifying to the accuracy of the code" which set forth the main tenets of the 'awaiyid of the Western Desert. I checked the contents of this document with

695 below will show how a "bad oath" can work directly on the
784 false witness.

784 Divine sanctions enter into other aspects of the
• 626 Bedouin judicial process and function to maintain social
626 control in al-Qasr. If we can speak of a standard, or
681 minimal sanction, in Bedouin law it would be the dhabiiha and 10 L.E. In any case, however small the offence might be, the litigant found to be in the wrong will have this judgment made against him. But in almost every case "the
[788] party who takes his rights" will refuse the dhabiiha and
[272] 10 L.E. and insist instead upon a ritual three cups of tea. An individual refuses the dhabiiha as an act of brotherhood and thanksgiving that the quarrel has been settled. The Bedouins point out the practical factor that very few men in al-Qasr can afford to part with even one lamb. On the
626 other hand, in more serious cases, such as homicide, which
681 occur in the external sphere of political relations and
682 threaten to disintegrate the political community, the parties
264 involved will actually eat a whole meal together. In this case, the dhabiiha is accepted, for the act of commensality is deemed necessary for reconciliation.

626 But whether or not conflict is concluded by a simple
182 ritual or a large feast, the prevailing mood is one of
771 gratitude that the secular bonds of brotherhood and a pre-ordained sacred order have been maintained. The Bedouin

process of conflict regulation is ritually sanctioned and the political order sacralized in a public way at the conclusion of litigation when the parties involved and the 'aqila read the Fatiha (the first sura of the Quran). For the Bedouins, the 'awaiyid is the enactment of the word of God, and the man who follows the 'awaiyid follows the commandments of God. One 'aqila speaking of the final authority which directs Bedouin society said this:

> God knows all things. God made the world and gave man a brain with which to think. Therefore, he gave man two choices: the good, and the bad. If a man follows the good, he does not steal, kill, or lie. God gave us Muhammad the Messenger, and he taught the ignorant to follow the word of God. You are an educated man, and so you must choose the good path and follow it. I do not read but I follow the Quran.

It follows, then, that "the good man" represents an important Bedouin cultural ideal which is legitimated by reference to the sacred. The practice of this ideal leads to "the good society." Another 'aqila, in reply to my question concerning the definition of a "good man," answered:

> A good man should follow God, and through this he will be a perfect man because such a man could make no mistakes. You could find no better person than this. The good man fasts, prays, makes the pilgrimage, and helps the poor. He avoids stealing and lying; these are the most important things to avoid . . . All men aim to do good. Some men think that they are doing good, but they cannot tell good from bad: this is the origin of badness . . . A man aims to do good so that the Arabs will thank him for it. The Arabs (i.e. the man's fellow Bedouins) will say that he is doing good and that he is following the good path.

first, the government may enter into conflict cases which are judged to be out of control and involving the larger tribal units; secondly, litigants, whether exercising internal or external political relations, have the right to take their case to a rajal khair. Both exceptions represent informal processes of social control in al-Qasr: the first case rarely happens, and the second case seems to occur quite frequently but no recordings of the settlement are made.

Sanctions in the Bedouin legal system conform to what Radcliffe-Brown referred to as secondary sanctions: "These are concerned with the actions of persons or groups in their effects upon other persons or groups" (1952:209). Also, it would seem that Bedouin law is one of private delicts as opposed to a law of public delicts:

> In the procedure of a law of private delicts a person or a body of persons that has suffered some injury, loss or damage by infringement of recognized rights appeals to a constituted judicial authority, who declares some other person or body of persons within the community to be responsible and rules that the defendant shall give satisfaction to the plaintiff, such satisfaction frequently taking the form of the payment of an indemnity or damages. A private delict is thus an action which is subject to what may be called a restitutive sanction (Radcliffe-Brown 1952:213).

In Bedouin society, delicts are private since they involve individuals or lineage groups, but the restitutive sanctions to which they give rise are backed by communal consensus expressed through public approval in general, and by the twin

external system, however, the law recognizes retaliation, a life for a life. Still, even in this case, Bedouin values expressed through the 'awaiyid try to avert bloodshed and feuding by showing "the good path" and providing the means for settlement through compensation.

Just as the Bedouin accepts the 'awaiyid as a set of ideals calculated to regulate conflict, he paradoxically claims the right to impose retaliatory sanctions as a just conclusion to conflict. One Bedouin said that the greatest sin which a man or group can commit is to accept the diiya and then take his blood-revenge and return the money. Presumably, a person or group commits no outrage if they refuse the diiya with the understanding that blood-revenge will be taken. In al-Qasr, retaliation and the 'awaiyid are mechanisms of social control and dispute settlement. A political office exists, i.e. the 'aqila which functions over the total range of political action, and the process of adjudication and compensation in the form of indemnity payment represents an institutionalized alternative to retaliation. In all cases of dispute, ritual or religious sanctions back up social sanctions. God is a third party to all conflict, and this is made manifest in the reading of the Fatiha or the oath-taking ceremony. In order to describe how authority and sanctions operate in Bedouin society, a number of examples are presented below. Some of the cases are the statements of informants about

of any permanent office; it is any person who is exercising the legitimate use of force. Simple as the above argument might seem, it really offers very little in refining our conception of legal sanctions. For we are still left with the question of how a person acquires the right to exercise the physical force. What gives his action the legitimacy that is otherwise lacking in other forms of coercion? In trying to deal with this problem anthropologists resorted to a concept that is used by the analytical jurists, that is, the court. There is a basic difference, however, between the anthropologists' view of the court and that of the analytical jurists. The latter see the court as the ultimate source of law: court creates the law. Anthropologists, on the other hand, tend to use the court as the source of law but as a criterion of its existence. An example of such views is Max Radin who maintained that the infallible test "for recognizing whether an imagined course of conduct is lawful or unlawful... is to submit the question to the judgment of a court" (1938:1145).

Anthropologists differed among themselves, however, on what constitutes a court. While Radcliffe-Brown (1940) insists that it must be a body of people acting on behalf of the community as a whole and therefore does not exist in all societies, Hoebel (1961), on the other hand, extends the concept to include the diffused public opinion or sentiment of the people in a given society as a kind of court that gives legitimation to the use of force by individuals or groups in the absence of a recognized body acting on behalf of the community. He sees a court in cases of self-help where the aggrieved party or his kinsmen carry on the procedures of redress without the intervention of a third party. He maintained that if the procedures are right, there will be "at least the compulsion of recognized 'legal' procedure, though the ultimate court may be the 'bar of public opinion'" (1961:25).

The concept of the court has been prominent in the writings of several other anthropologists besides Radcliffe-Brown and Hoebel. Bohannan (1957, 1964, 1965), Redfield (1964) and Pospisil (1958) all imply the existence of a court of some kind or another as the identifying mark of the existence of legal rules. In his attempt to distinguish between law and custom, Gluckman thought of law to exist "as a series of acceptable judgments of rightdoing and wrongdoing in particular cases" (1955:262). Custom and other social observances function as corpus juris and as such a basis for the judgment of where the behavior of one of the litigants in a case is reasonable or unreasonable, lawful or unlawful. As such, custom is a source of law, but not law itself. It becomes law when drawn upon in passing judgment in a given case. In commenting on a passage on the Nuer by Evans-Pritchard, Gluckman made it clear what he meant by the court. "This passage shows that even in a society where 'self-help' is the enforcing sanction, people judge situations of dispute in terms of rights and duties, and wrongs....Therefore, it seems fair to say that among the Nuer, though they have no courts, there is a process of judgment by mediators and ordinary people in which custom and morality as part of the corpus juris constitute 'sources of law' for particular decisions" (1955a:263).

The importance of the above passage from Gluckman is his distinction between the concept of the court and the judicial process, a distinction lacking in the writing of most other anthropologists dealing with the study of law. Failure to distinguish the two aspects of the legal system resulted in confusing a basic societal process with one of the mechanisms through which the goals of that process achieved in certain societies. In its broadest sense, the judicial process refers to the ways disputes are settled within society. Since didsputes arise out of the very nature of social interaction, some form of dispute settlement is found in all societies.

The form which the process of dispute settlement takes differs from one society to another. In certain societies disputes are settled through a process of informal mediation undertaken by go-betweens; in others it is by means of self-help; still in others, it is by way of court. In societies with courts the process of dispute settlements is undertaken by judges who "take and assess the evidence, examine what they regard as the facts, and come to a decision in favor of one party rather than another" (Gluckman 1965:183).

Within a given society, disputes are settled in accordance with a set of principles that reflect the basic goals and values of that society. As long as the settlement of a particular dispute proceeds according to these principles, the settlement is supported by the public opinion of that society. This is true whether the process is carried on b y means of informal mediations or through a court system. It is this public opinion as the expression of the basic societal values and not the court as a special mechanism that gives legitimation to the judicial decisions. To equate opinion with the court as Hoebel (1961) did, or to look at the court as the ultimate source of legitimation as did Radcliffe-Brown (1940) and others (Redfield 1964, Bohannan 1965), is to create an unnecessary confusion which tends to undermine meaningful cross-cultural comparisons. Whatever the differences among anthropologists with regard to the definition of the court, their main interest in the concept so far has been as a tool for the definition of law. The interest in the concept gave rise to a methodological approach which came to characterize the literature in legal anthropology, namely, the case-study approach, cases having been utilized in a number of ways by legal anthropologists. In their book on the Cheyenne, Llewellyn and Hoebel (1941) introduced the analysis of "the trouble case." This was followed by a number of studies utilizing the case study method either to

613 mainly a declaration that, that particular person is no longer a member
681 of the tribal segment and that his actions should not in any way reflect upon the tribal segment. The tribal segment referred to is usually the amar since it is only politically corporate group amoung Awlad Ali. The procedure is usually undertaken in cases of habitual offenders whose actions consistently bringing liability to the amar or disgracing it in relations with other tribal groups in the area. Due to the seriousness of the procedure (since it leaves the individual without the protection of his group), it is restricted. First, to announce the barawa of any of its members the amar has to get the unanimous agreement of all adult males of the gorup as represented by their Awaqil of their respective [675] baits. Lately such decisions have to be put in writing. The barawa [593] from the amar does not include the man's father, brothers, or sons. [672] These immediate relatives remain responsible for his actions even if they desire to detach themselves from such responsibility. This is mainly maintained not so much for the protection of the repeated offender but rather for the protection of unsuspecting people who happen to have dealings with him and who would be protected by the corporate responsibility of the man's immediate kin. In addition to repeated offenders, the [626] barawa or the threat of it is used to back the awaqil in their exercise of persuasion to get members of their baits to agree to their decisions, expecially those affecting the amar, like the collection of bloodmoney or the taking of the oath.

A man, on his part, may ask to be given a barawa from his amar. In this case, as shown in the amar papers of Aggary, he has to give good reasons for such a demand. The awaqil of the amar meet and discuss such

795 Because of their religious position which put
175 them outside the tribal structure, the leaders of the zawyas played a
627 significant role in mediation and settling disputes between various tri-
793 bal segments. At their disposal was their ability to ostracize anyone
[626] who did not abide by their decision from the zawyas, which meant depriving him from all the benefits, social as well as religious, that membership in the zawyas offered.

795 After the First World War when the British replaced the Turks as
175 governors of the area, the zawyas were closed and the religious leaders
177 ordered to leave. The zoning established by the zawyas existed, however,
[648] and was used as the basis for the redistricting of the area. Police
[631] stations replaced the religious centers. From the standpoint of the tri-
[625] bal population itself, the districts have no psychological or political
619 reality. The zawyas were originally established in the areas of tribal
634 concentrations. But the area itself did not have any political identity.
[795] The only reality from the standpoint of the inhabitants was the tribal
[361] reality and affiliation which cut across many of these districts. Many of the tribal segments inhabiting one district were and still are hostile to one another. To transform the zones into administrative districts and
177 to establish one office of leadership for the whole district was to im-
634 pose a political unity nonexistent among the tribal segments inhabiting
619 the district. To avoid this difficulty, the government supplemented the
[622] territorial principle of the omda system in the rural area with the principle of tribal representation and came up with a system which seems to suite the situation in the Western Desert. For each of the districts, a list of all tribal segments which habitually occupy the area and whose tribal land is located within the district, is made. The most powerful

593 595 562 providing them with the same kind of food and clothing.* It also includes dividing his time equally between them, spending one night in each wife's tent. The first wife, being the chief one, has certain privileges: her tent is the guest house, food is brought to her residence, and she is the one to divide it among the other wives, and her house is the place for the husband to stay if he becomes sick and unable to move every night from one tent to another. Other than the exceptions given to the first wife, the husband has to treat all his wives equally.

593 (586) Normally, such cases of mistreatment do not result in divorce unless they are persistent. In most cases, if the wife is mistreated, she goes to her father's or brother's house or sends for them to come and take her. For the husband to bring her back to his tent, he must pay her "nasafa." This is a gift given by the husband to his wife as an acknowledgement of guilt and as a form of apology for not giving her fair treatment. In some cases the nasafa is equal to what the husband originally paid as mahr.

593 431

581 585 626 These are some of the rights that marriage gives both men and women in the tribal society of Awlad Ali. These rights, however, are useless unless they are backed by certain means of enforcing them. The husband's rights are guaranteed by his ability to dissolve the marriage at will.

586 626 593 According to Islamic law, a man can divorce his wife by simply pronouncing the sentence "I divorce you" in the presence of credible witnesses.

(579) (562) No justification for divorce is demanded from the husband according to the Koraan. No such privilege is given to the wife. She can obtain a

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* With provision for wives with more children.

586 626 593 [562] [779] divorce only under specific circumstances in the absence of which the husband can force her to live with him. Following the Koraanic rules, Awlad Ali give men the right to dissolve the marriage at will and without any necessary justification; however, they differentiate between cases where divorce is justified and those in which it is not. In a case of justifiable divorce, the husband can take back the mahr and possibly all other marriage expenses. In the case of unjustifiable divorce, the husband forfeits his right to regain the mahr. Divorce is justified whenever one or more of the husband's rights are violated by the wife or members of her family. Not all degrees of violation are considered as justification for divorce, however. Only intolerable violations can be considered as such. In deciding whether or not an act constitutes an [183] intolerable violation, Awlad Ali judge it against the standard of the reasonable man, the customary man, and what he would have tolerated in a similar situation.

586 183 554 What constitutes reasonable behavior does not only vary according to the situation and the manner in which the actions are taken, but also with the relative position in the social structure of the parties involved and their initial relations to one another. In the case of divorce, what constitutes grounds for justifiable divorce in one case may not be sufficient grounds for justifiable divorce in another. In one of 586 183 554 511 the cases I witnessed during the year of study, a man who divorced his wife because of her insistence that he buy her meat from the market every day of the week, was forced to forfeit his right to redeem the [114] mahr on the basis that the wife's actions had not established a basis for justifiable divorce. In the negotiations that followed, the position of the husband, as well as that of the family of the wife, were discussed.

his wife. The husband agreed but insisted that she pay him L.E. 300 (this included the mahr and the marriage expenses). The Omda tried to reduce the amount but could not. He then tried to get the father to pay, but the father refused. He had to pay the husband L.E. 200 of his own money and promised that the rest would be paid when the woman remarried (it would be paid from the mahr). The husband divorced Haida. One week later she was married to her lover. I have no information about whether or not the 100 pounds was paid.

In another example, Sabha was forced by her father to marry her cousin (ibn 'amm). She could not live with him, so she threw herself on one of the holy men in the area. The holy man convinced the husband to divorce Sabha and then went to her father and convinced him to pay back the mahr to the husband, and the case was settled. People say that both the husband and the father agreed to the demands of the holy man because they were afraid of his supernatural curse. Sabha went back to her father's house.

It is obvious from these and similar cases that the success or failure of the procedure depends on the careful selection of the man on whom a woman throws herself. It is also apparent from the above examples that his right of refuge is resorted to only in cases where the woman cannot go to her father or to her closest kin to help her get a divorce because he is either unable or unwilling to help her. A father is unable to help if the husband is powerful or if he is the woman's ibn 'amm (father's brother's son) who has, according to the tribal law, the undisputed right to marry his bint 'amm (father's brother's daughter). The father is usually unwilling to help his daughter if he is the one

586 562 593 who forced her to marry the husband, or if she was cut off from the family for some reason or another.

586 562 574 626 From the frequency of women using this right in the area, it seems that no social disapproval is associated with it, nor is there a social stigma attached to women who throw themselves. They seem to find it as easy to find a husband as those women divorced voluntarily by their husbands or with the help of their fathers. In fact, as was 586 562 mentioned earlier, many of them marry the rich men over whom they 587 throw themselves. As to the amount of mahr paid for their subsequent [583] marriages, the fact of throwing themselves does not seem to be a factor [574] in determining the amount of mahr paid. In one of the cases, the woman threw herself on an 'aqila of one of the Geneishat tribe after her father refused to help her get a divorce from her husband who had married a second wife without first asking the first wife's permission. [429] When the Geneishat member succeeded in convincing the husband to divorce his wife, the latter had no place to stay so remained in the house of her protector who acted as her guardian in place of her father [583] who had refused to take her back in his home. While staying in the house of her protector, she got many marriage offers; one of the suitors offered a mahr of L.E. 4,000 ($10,000), one of the highest mahrs reported in the area. She agreed, and the marriage was affected. This mahr is about ten times the mahr she got for her first marriage. This 586 562 procedure offers the woman a considerable guarantee of her marital rights. It also gives her, as far as the ability to dissolve the marriage, a status close to that of her husband. This relative equality is reflected is reflected in the lack of stigma associated with divorced

the role of the victim in initiating the act of the offender. In the case of the adulterous wife (Case #7), the intention of the husband to kill the wife's lover was clear from the evidence; yet, the husband's kin group never attempted to take refuge, and the victim's group was eager to settle the case with the least amount of publicity. On the other hand, killing in circumstances that offend the tribal standards of chivalry, like killing from ambush or during the night, are the most difficult to solve and pose the greatest chance for retaliation.

Although the traditional amount of compensation is not determined by the actual intentions of the killer, but rather by assumed intentions as deducted from the type of weapon used in causing death, yet, the final amount paid is usually determined by such intention. The actual intention works as the basis for bargaining between the victim's kin and the kin of the killer. Kin of the victim of an intentional killing are less likely to agree to any reduction of the amount, and with the threat of retaliation or revenge present, the killer's kin are bargaining from a weaker point. This is not the case in unintentional killings or where the victim's behavior instigated the reaction of the killer. In such cases, the victim's group is more willing to accept a lesser amount of compensation, and the killer's group, while not in a good bargaining position, at least are not under the threat of revenge. And since they do not resort to the right of refuge, their daily activities are not disrupted. In this case, they could sustain the bargaining activities for a relatively longer period of time. Also, there is usually a strong pressure on the victim's group to accept reduced compensation in the case of unintentional killing from the rest of the tribal members. If

682 they refuse to accept reduced compensation, they are viewed as unreason-
672 able by the rest of the groups in the area. One way in which such pres-
[626] sure is brought to bear upon the victim's acceptance of reduced compansation
682 is in the mi'ad, or the public hearing, in which the settlement achieved
672
627 is announced. The common practice is for the killer's group to agree to pay the full amount specified by the traditional scale for compensation (L.E. 400 for killing with a lethal weapon and L.E. 300 for killing with a non-lethal weapon). Then, in the final mi'ad in which such agreement is achieved, a number of important members of non-involved tribal segments are invited to the mi'ad. During the mi'ad and immediately following the announcement that a settlement has been achieved and that the kin group of the killer has agreed to pay the traditional bloodmoney, the mardi or any one of the attendants to the mi'ad asks the victim's group to defer part of the payment in honor of important members of the tribal segments pres-
682 ent at the meeting. Sometimes a portion of the payment is forfeited in
672 honor of the tent or the women of the household who prepared the food or even for the blessing of one of the saints in the area. In the case of the curious neighbor (Case #2) above, out of the original amount specified for the death by non-lethal weapon estimated as L.E. 300, only L.E. 100 was actually given to the victim's kin group. In addition to the L.E. 100 deducted because of the death of the unborn infant of the offender, another hundred pounds was deducted in honor of certain important members
[683] who attended the gathering. It is interesting to note that the L.E. 100 is compensation for the loss of the use of a leg in the formal scale of compensations for injuries as will be shown shortly. No such reduction in the amount of bloodmoney was done in the case of the trespasser where

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

reason in three families of one tribe paying together, while the fourth is independent. Sometimes this is caused by geographical separation, at other times by personal animosity or jealousy.

The main difference between the rules of the Western Desert and Sinai is that in the West reprisals taken at the discretion of an aggrieved individual are not recognised as lawful, and are distinctly discouraged. Generally speaking, the Western Bedou is a very much more prosperous and law-abiding person than the Sinai Arab, although at the same time he retains his charm as a primitive and independent being. Occasionally a dastardly murder takes place, but public opinion is very strong not only against the murderer personally, but against all the members of his family, who automatically share his unpopularity.

In the spring of 1920 an old man, reputed to possess considerable wealth, both in camels and sheep and also in gold buried in the ground, was returning about mid-day from market riding his donkey, and one of his numerous grown-up sons was walking on foot beside him. After going four or five miles in the open desert, the old man got off his donkey, and told his son to ride for a little way while he walked. The son suddenly attacked his old father and hit him with the heavy stick he was carrying; and the poor old man died almost at once with a broken skull. There was nobody about, and the son dragged his father's body about a hundred yards, and threw it down an old dried-up cistern; then, mounting his donkey, he rode home to dinner.

That afternoon the local sheikh was told of the old man's disappearance, and as he had seen father and son leaving the market together, he had his suspicions. He traced their footsteps, picking up the tracks of a heavily laden donkey and one man walking, from near the entrance to the market place. Then, following along carefully on these tracks, he saw where the old man had dismounted. Then he saw a spot of blood and the place where the

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

682 body had been dragged. He followed the footsteps of the
674 son as far as the cistern, where he again saw a tiny spot of fresh blood on one of the stones. From that point donkey-tracks led straight to the son's tent.

By nightfall the son was securely lodged in the police post; and local public opinion was seething with fury, firstly at such a dastardly deed committed presumably for the sake of the old man's money, and secondly because it reflected untold discredit on the rest of the tribe. The murderer, who was a big powerful man of about thirty standing nearly six feet in height, lay in prison awaiting trial. After a few days he was admitted to hospital, where he completely collapsed and died of fright a fortnight later.

[203] Rumours then began to spread that possibly the murderer had only acted in accordance with the wishes of his brothers, who were all conspiring to get rid of the old man, in order that they might share out his possessions. This could not be proved, and appeared unlikely from the
[626] evidence. However, public feeling against the whole family ran so high that it was feared that more horrors might follow; but although no open action was taken against the family, no opportunity was missed of having a dig at them in some way or another.

682 A very wealthy sheep merchant, who was a distant
674 connection of the family, and heartily ashamed of them,
691 brought an action for debt against one of the murderer's
626 brothers. He produced an I.O.U. for £2 dated twelve
686 years before and signed by the murdered man, claiming (according to custom) that the son now in court as defendant had inherited his father's liabilities together with
[672] his assets.

This sheep merchant was known personally to the writer, who was also aware that a month previously he had made a profit of £900 on a very clever bit of dealing in the West. The collection, after an interval of twelve years, of this paltry debt of £2, owing from the deceased father

8: Kennett G-5 (ca. 1921) 1925 MT9 Libyan Bedouin MT9

of the present defendant seemed—for a really wealthy man—to be pointless and futile. The merchant anticipated this objection by hastening to add that the receipt of the actual cash did not interest him in the least; but that he had been wondering how he could shew his disapproval of the defendant's family in some way, and had gone carefully through all his old papers and receipts with this end in view, and had triumphantly discovered the bill of debt now produced in court.

Bedouin Law and custom sometimes accept right to bloodmoney in all sorts of circumstances, when other law would recognise no claim. For example, the principle is accepted that a life lost in prison must be paid for by the informers whose information resulted in the imprisonment of the deceased. It is entirely immaterial whether the information so given to the police was wilfully false or intentionally misleading, or whether it was merely subsequently found to be incorrect. Even if the information had been true and correct in every detail, the informer is still blood-guilty from the Ourfi standpoint, although in actual practice any such claims for bloodmoney would probably be considerably modified.

Other claims for bloodmoney are also recognised occasionally, in cases of obvious accidental death, or death by misadventure or Act of God, when the interpreters of Bedouin Law cannot get away from the main principle that a life lost must be paid for. The difficulty in these cases is to determine who shall pay for it; and the lawsuits usually end in a clever compromise, in which their essential principles are duly observed, but their judgments are mitigated and modified by leniency and commonsense. The following example, which occurred recently in Mariut, will illustrate this.

A certain Arab called Ali Abu Bukr had inherited from his father large cultivation rights in the desert; and in the middle of this land was an old cistern for the collection of rain water. It had not been used for years, and was silted